



# Department of Toxic Substances Control

Edwin F. Lowry, Director  
1011 N. Grandview Avenue  
Glendale, California 91201



Winston H. Hickox  
Agency Secretary  
California Environmental  
Protection Agency

Gray Davis  
Governor

## CERTIFIED MAIL

August 8, 2001

Mr. Thomas D. Roberts, Site Manager  
Eastman Chemical Company  
2801 Lynwood Road  
Lynwood, California 90262

Dear Mr. Roberts:

IN THE MATTER OF: CONSENT ORDER DOCKET NUMBER HWCA 01/02-3003

Enclosed please find a copy of the Consent Order (Order) to settle the Department of Toxic Substances Control (DTSC's) pending enforcement action against Eastman Chemical Company.

Should the language of the Order be acceptable to you, please sign the order and return the the original to the undersigned at the above address. Subsequently, DTSC will forward you a copy of the fully executed Order.

If you have any question regarding this letter or the Order, please contact Gilbert Rabago, Hazardous Substances Scientist at the address listed above, telephone number (818) 551-2867.

Sincerely,

Robert Kou, Unit Chief  
Statewide Compliance Division  
Glendale Branch

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs see our Web-site at [www.dtsc.ca.gov](http://www.dtsc.ca.gov)*

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of: ) Docket HWCA 01/02-3003  
)  
) CONSENT ORDER  
Eastman Chemical Company )  
2801 Lynwood Road )  
Lynwood, California 30262 )  
EPA ID # CAD 076180843 ) Health and Safety Code  
Section 25187  
Respondent )

The State Department of Toxic Substances Control  
(Department) and Eastman Chemical Company enter into this Consent  
Order and agree as follows:

1. Respondent handles, treats and stores hazardous  
waste at 2801 Lynwood Road, Lynwood, California (Site).

2. The Department inspected the Site on February 8,  
February 16 and March 8, 2001.

3. The Department alleges the following violations:

3.1. Respondent violated Title 22, California Code  
Regulations (CCR), Sections 66262.34(a) (4) and 66265.35, in that,  
Respondent failed to maintain adequate aisle space to allow the  
unobstructed movement of personnel, fire protection equipment,  
spill control equipment, etc. in the storage area.

3.2. The Respondent violated Health and Safety Code,  
Section 25201(a), in that Respondent stored hazardous waste at  
its facility in excess of ninety days, without authorization from  
the Department.

3.3. The Respondent violated Title 22, CCR,  
Section 66262.11(b), in that Respondent failed to make a proper  
hazardous waste determination for hazardous waste generated.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation  
and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety  
Code (HSC) section 25187.

7. Respondent waives any right to a hearing in this  
matter.

8. This Consent Order shall constitute full settlement  
of the violations alleged above, but does not limit the  
Department from taking appropriate enforcement action concerning  
other violations.

9. Respondent admits the violations.

#### SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1. Within 30 days of the effective date of this  
Order, Respondent shall pay the Department the total amount of  
\$20,000.00 in penalties.

10.2. All submittals from Respondent pursuant to this  
Consent Order shall be sent to:

1 Gilbert Rabago  
2 Department of Toxics Substances Control  
3 1011 North Grandview Avenue  
4 Glendale, California 91201

5 10.3. Communications: All approvals and decisions of  
6 the Department made regarding such submittals and notifications  
7 shall be communicated to Respondent in writing by a Branch Chief,  
8 Department of Toxic Substances Control, or his/her designee. No  
9 informal advice, guidance, suggestions, or comments by the  
10 Department regarding reports, plans, specifications, schedules,  
11 or any other writings by Respondent shall be construed to relieve  
12 Respondent of its obligation to obtain such formal approvals as  
13 may be required.

14 10.4. Department Review and Approval: If the  
15 Department determines that any report, plan, schedule, or other  
16 document submitted for approval pursuant to this Consent Order  
17 fails to comply with the Order or fails to protect public health  
18 or safety or the environment, the Department may return the  
19 document to Respondent with recommended changes and a date by  
20 which Respondent must submit to the Department a revised document  
21 incorporating the recommended changes.

22 10.5. Compliance with Applicable Laws: Respondent  
23 shall carry out this Order in compliance with all local, State,  
24 and federal requirements, including but not limited to  
25 requirements to obtain permits and to assure worker safety.

26 10.6. Endangerment during Implementation: In the  
27 event that the Department determines that any circumstances or  
activity (whether or not pursued in compliance with this Consent  
Order) are creating an imminent or substantial endangerment to

1 the health or welfare of people on the site or in the surrounding  
2 area or to the environment, the Department may order Respondent  
3 to stop further implementation for such period of time as needed  
4 to abate the endangerment. Any deadline in this Consent Order  
5 directly affected by a Stop Work Order under this section shall  
6 be extended for the term of such Stop Work Order.

7           10.7. Liability: Nothing in this Consent Order shall  
8 constitute or be construed as a satisfaction or release from  
9 liability for any conditions or claims arising as a result of  
10 past, current, or future operations of Respondent, except as  
11 provided in this Consent Order. Notwithstanding compliance with  
12 the terms of this Consent Order, Respondent may be required to  
13 take further actions as are necessary to protect public health or  
14 welfare or the environment.

15           10.8. Site Access: Access to the Site shall be  
16 provided at all reasonable times to employees, contractors, and  
17 consultants of the Department, and any agency having  
18 jurisdiction. Nothing in this Consent Order is intended to limit  
19 in any way the right of entry or inspection that any agency may  
20 otherwise have by operation of any law. The Department and its  
21 authorized representatives may enter and move freely about all  
22 property at the Site at all reasonable times for purposes  
23 including but not limited to: inspecting records, operating logs,  
24 and contracts relating to the Site; reviewing the progress of  
25 Respondent in carrying out the terms of this Consent Order; and  
26 conducting such tests as the Department may deem necessary.  
27 Respondent shall permit such persons to inspect and copy all



1 records, documents, and other writings, including all sampling  
2 and monitoring data, in any way pertaining to work undertaken  
3 pursuant to this Consent Order.

4 10.9. Sampling. Data, and Document Availability:

5 Respondent shall permit the Department and its authorized  
6 representatives to inspect and copy all sampling, testing,  
7 monitoring, and other data generated by Respondent or on  
8 Respondent's behalf in any way pertaining to work undertaken  
9 pursuant to this Consent Order. Respondent shall allow the  
10 Department and its authorized representatives to take duplicates  
11 of any samples collected by Respondent pursuant to this Consent  
12 Order. Respondent shall maintain a central depository of the  
13 data, reports, and other documents prepared pursuant to this  
14 Consent Order. All such data, reports, and other documents shall  
15 be preserved by Respondent for a minimum of six years after the  
16 conclusion of all activities under this Consent Order. If the  
17 Department requests that some or all of these documents be  
18 preserved for a longer period of time, Respondent shall either  
19 comply with that request, deliver the documents to the  
20 Department, or permit the Department to copy the documents prior  
21 to destruction. Respondent shall notify the Department in  
22 writing at least six months prior to destroying any documents  
23 prepared pursuant to this Consent Order.

24 10.10. Government Liabilities: The State of  
25 California shall not be liable for injuries or damages to person  
26 or property resulting from acts or omissions by Respondent or  
27 related parties specified in paragraph 12.3, in carrying out

1 activities pursuant to this Consent Order, nor shall the State of  
2 California be held as a party to any contract entered into by  
3 Respondent or its agents in carrying out activities pursuant to  
4 this Consent Order.

5 10.11. Incorporation of Plans and Reports: All plans,  
6 schedules, and reports that require Department approval and are  
7 submitted by Respondent pursuant to this Consent Order are  
8 incorporated in this Consent Order upon approval by the  
9 Department.

10 10.12. Extension Requests: If Respondent is unable to  
11 perform any activity or submit any document within the time  
12 required under this Consent Order, the Respondent may, prior to  
13 expiration of the time, request an extension of time in writing.  
14 The extension request shall include a justification for the  
15 delay.

16 10.13. Extension Approvals: If the Department  
17 determines that good cause exists for an extension, it will grant  
18 the request and specify in writing a new compliance schedule.

#### 19 PAYMENTS

20 11. within 30 days of the effective date of this Order  
21 Respondent shall pay the Department a total sum of \$20,000.00, in  
22 penalties.  
23

24 Respondent hereby agrees to send Brian McGuire to  
25 the California Compliance School, Modules I-IV. Respondent shall  
26 submit to the Department, within 185 days of the effective date  
27 of this Order, a Certificate of Satisfactory Completion issued by

1 the California Compliance School indicating that Brian McGuire  
2 satisfactorily completed California Compliance School, Modules I-  
3 IV. If Respondent fails to submit the required certificate to the  
4 Department within 185 days of the effective date of this Order,  
5 then Respondent agrees to pay the Department a penalty of  
6 \$5,000.00 which shall be paid within 215 days of the effective  
7 date of this Order.

8 Respondent's checks shall be made payable to Department  
9 of Toxic Substances Control, and shall be delivered together with  
10 the attached Payment Voucher to:

11  
12 Department of Toxic Substances Control  
13 Accounting Office  
14 1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

15  
16 A photocopy of the check shall be sent to:

17 Robert Kou  
18 Department of Toxics Substances Control  
19 1011 North Grandview Avenue  
Glendale, California 91201

20 OTHER PROVISIONS

21  
22 12.1. Additional Enforcement Actions: By agreeing to  
23 this Consent Order, the Department does not waive the right to  
24 take further enforcement actions, except to the extent provided  
in this Consent Order.

25 12.2. Penalties for Noncompliance: Failure to **comply**  
26 with the terms of this Consent Order may subject Respondent to  
27 civil penalties and/or punitive damages for any costs incurred by



1 the Department or other government agencies as a result of such  
2 failure, as provided by HSC section 25188 and other applicable  
3 provisions of law.

4 12.3. Parties Bound: This Consent Order shall apply  
5 to and be binding upon Respondent and its officers, directors,  
6 agents, receivers, trustees, employees, contractors, consultants,  
7 successors, and assignees, including but not limited to  
8 individuals, partners, and subsidiary and parent corporations,  
9 and upon the Department and any successor agency that may have  
10 responsibility for and jurisdiction over the subject matter of  
11 this Consent Order.

12 12.4. Effective Date: The effective date of this  
13 Consent Order is the date it is signed by the Department.

14  
15  
16 Dated: \_\_\_\_\_

Original Signed By

\_\_\_\_\_  
Signature of Respondent's  
Representative

17  
18  
19  
20 Dated: \_\_\_\_\_

Original Signed By

\_\_\_\_\_  
Authorized Representative for  
Respondent

21  
22  
23  
24 Dated: 10/23/01 \_\_\_\_\_

Original Signed By

\_\_\_\_\_  
Robert Kou, Unit Chief  
Statewide Compliance Division  
Department of Toxic Substances  
Control